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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,497	07/19/2001	John W. Evans	290397.0007	9692
21832	7590	04/19/2005	EXAMINER	
MCCARTER & ENGLISH LLP CITYPLACE I 185 ASYLUM STREET HARTFORD, CT 06103			HAMLIN, DERRICK G	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/910,497	Applicant(s) EVANS ET AL.	
	Examiner Derrick G. Hamlin	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 40-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 40-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Status of Claims

Claims 1-29 and 40-50 are currently pending.

The rejection of claims 1-29 and 40-50 under 35 U.S.C. 103(a) as being unpatentable over Wood (US 4455248), is maintained for the reasons set forth in the rejection mailed 10/24/03.

The rejection of claims 1-6, 14-16, 18, 21, 26-29, 40, 42 and 43 under 35 U.S.C. 103(a) as being unpatentable over Newell et al. (US 4,293,441), is maintained for the reasons set forth in the rejection mailed 10/24/03.

Response to Amendment

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The applicant argues that the references are intended to be combined with water.

Again, the composition of Wood optionally contains water. For reasons relating to convenience in handling and storage, the antifreeze may be formulated as a concentrate containing little or no water and as little as 0.1 parts by weight water. (col. 2, line 56–col. 3, line 13 and col. 6, lines 61-62) Although solubility increases with temperature, it is clear that the invention of the Wood reference may contain little to no

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water, even if solubility of certain salts is reduced. Similarly, the applicant argues that the Newell reference has components that are water-soluble; therefore it must contain water to keep the compounds in solution. It is clear Newell teaches that at elevated temperatures, for example, at temperatures above 100 degrees C, little or no water need be added to the glycol/fluoroaliphaticphosphonic acid solution. Although solubility increases with temperature, it is clear that the invention of the Newell reference may contain little to no water, even if solubility of certain salts is reduced.

The applicant also argues that the reference fails to ^{teach} that the composition reduces oral toxicity. One of ordinary skill in the art would reasonably expect that compositions that are similar would have similar properties, as there is a "presumed expectation that structurally similar compounds have similar properties absent a showing of an actual unexpected difference of properties between the claimed compound and the prior art." *In re Dillon*. (CA FC) 16 USPQ2d 1897

In view of the forgoing, the above claims have failed to be patently distinguishable over prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick G. Hamlin whose telephone number is (571) 272-1317. The examiner can normally be reached on Monday-Fridays from ~8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

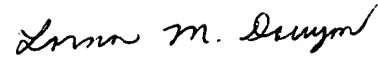
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick G. Hamlin

4/15/05



LORNA M. DOUYON
PRIMARY EXAMINER